



Attorney Docket: YOR920010386US2 AF
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Janniello et al.
Docket No.: YOR920010386US2
Serial No.: 09/938,147
Filing Date: August 22, 2001
Group: 2153
Examiner: Sean M. Reilly

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: Date: October 10, 2006

Title: Method and Apparatus for Client Sharing of Cached Content

TRANSMITTAL LETTER

Mail Stop Appeal Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

1. Response to Notification of Non-Compliance with 37 C.F.R. §41.37; and
2. Corrected Appeal Brief.

In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **IBM Corporation's Deposit Account No. 50-0510** as required to correct the error a duplicate copy of this letter is enclosed.

Respectfully,

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

Date: October 10, 2006



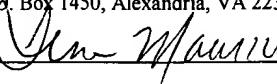
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RESPONSE TO NOTIFICATION OF NON-COMPLIANCE WITH 37 C.F.R. §41.37

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliance with 37 C.F.R. §41.37, dated September 8, 2006, Applicants submit herewith a Corrected Appeal Brief.

Respectfully,



Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

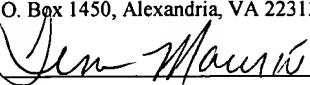
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15

CORRECTED APPEAL BRIEF

20 Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

25 Sir:

30 Appellants hereby submit this Corrected Appeal Brief to conform to the current format requirements. The original Appeal Brief was submitted on May 16, 2006 to appeal the final rejection dated November 16, 2005, of claims 1-13 and 15-28 of the above-identified patent application.

REAL PARTY IN INTEREST

35 The present application is assigned to International Business Machines Corporation, as evidenced by an assignment recorded on August 22, 2001 in the United States Patent and Trademark Office at Reel 012121, Frame 0095. The assignee, International Business Machines Corporation, is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

40

STATUS OF CLAIMS

Claims 1-13 and 15-28 are pending in the above-identified patent application. Claim 14 is cancelled. Claims 21-23 remain rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 1-13 and 15-27 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. (United States Patent Number 6,026,474) and Humphrey (United States Patent Application Publication Number 2002/0129116), and claims 1-13 and 15-28 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. (United States Patent Number 6,886,178). The rejections of claims 1-13 and 15-28 are being appealed.

STATUS OF AMENDMENTS

There have been no amendments filed subsequent to the final rejection.

15

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is directed to a method and apparatus for distributing content to multiple users, including at least one broadcast-enabled user. A broadcast-enabled user (300) receives content for storage in a client-side cache over a broadcast connection and shares the cached content with one or more other users (who may or may not be broadcast-enabled users). (Pages 4-5.) Users that are not broadcast-enabled users can access the broadcast information and broadcast-enabled users can potentially access a richer set of cached information by sharing the cached information with other broadcast-enabled users (pages 5-9). A central cache directory identifies one or more broadcast-enabled users that can provide each cached content item, such as each Web page (pages 5-9). A client initially determines if desired content is available in a local client cache (270; Step 1) or a local broadcast cache, if available (Step 2), before accessing the central cache directory to determine if the requested item is available in the cache of another user (Step 3), or requesting the content from an edge server (230, 400; Step 4) or the web site (120, 220; Step 5) on the lower bandwidth channel. (Pages 10-30 12.)

In one exemplary embodiment, a method for storing digital content in a client-side cache is disclosed, comprising the steps of: receiving content broadcast to a client via a wireless broadcast connection (100), wherein the client is a machine that serves one or more users on a local area network (pages 9-10); storing the received content in the client-side cache based on a user profile (260; pages 9-10); and making the content in the client-side cache available to other clients (pages 9-10).

In another exemplary embodiment, a method for obtaining content over a network is disclosed, comprising the steps of: determining if requested content is in a local cache (pages 10-12); and requesting the content from a remote client cache if the requested content is not in the local cache, wherein the content in the remote client cache was broadcast to a client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network, and wherein the content was stored in the remote client cache based on a user profile (pages 10-12).

In another exemplary embodiment, a method for sharing digital content among a plurality of users is disclosed, comprising the steps of: storing content broadcast to a client via a wireless broadcast connection in a client-side cache of at least one client, wherein the client is a machine that serves one or more users on a local area network and wherein the content is stored based on a user profile (pages 9-10); making the content in the client-side cache available to a plurality of additional clients (pages 9-10); and maintaining a directory of the content made available to a plurality of additional clients (pages 9-10).

In one exemplary embodiment, a method for storing digital content in a client-side cache is disclosed, comprising the steps of: receiving content broadcast to a client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network and wherein the client is tuned to receive the wireless broadcast connection via a digital television channel (pages 7 and 9-10); storing the received content in the client-side cache based on a user profile (pages 9-10); and making the content in the client-side cache available to other clients (pages 9-10).

In another exemplary embodiment, the received or stored content was predicted to be of interest to a user (pages 6 and 9-10).

In one exemplary embodiment, a system for storing digital content in a client-side cache is disclosed, the system comprising: a memory that stores computer-readable code; and a processor operatively coupled to the memory, the processor (310) configured to implement the computer-readable code, the computer-readable code configured to: receive content broadcast to a client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network (pages 9-10); store the received content in the client-side cache based on a user profile (pages 9-10); and make the content in the client-side cache available to other clients (pages 9-10).

10 In one exemplary embodiment, a system for obtaining content over a network is disclosed, the system comprising: a memory that stores computer-readable code; and a processor operatively coupled to the memory, the processor configured to implement the computer-readable code, the computer-readable code configured to: determine if requested content is in a local cache (pages 10-12); and request the content 15 from a remote client cache if the requested content is not in the local cache, wherein the content in the remote client cache was broadcast to a client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network, and wherein the content was stored in the remote client cache based on a user profile (pages 10-12).

20 In one exemplary embodiment, a system for sharing digital content among a plurality of users is disclosed, the system comprising: a memory that stores computer-readable code; and a processor operatively coupled to the memory, the processor configured to implement the computer-readable code, the computer-readable code configured to: store content broadcast to a client via a wireless broadcast connection in a 25 client-side cache of at least one client, wherein the client is a machine that serves one or more users on a local area network and wherein the content is stored based on a user profile (pages 9-10); make the content in the client-side cache available to a plurality of additional clients (pages 9-10); and maintain a directory of the content made available to a plurality of additional clients (pages 9-10).

In one exemplary embodiment, an article of manufacture for storing digital content in a client-side cache is disclosed, comprising: a computer readable medium having computer readable code means embodied thereon, the computer readable program code means comprising: a step to receive content broadcast from a central server 5 to a client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network (pages 9-10); a step to store the received content in the client-side cache based on a user profile (pages 9-10); and a step to make the content in the client-side cache available to other clients (pages 9-10).

In one exemplary embodiment, an article of manufacture for obtaining 10 content over a network is disclosed, comprising: a computer readable medium having computer readable code means embodied thereon, the computer readable program code means comprising: a step to determine if requested content is in a local cache (pages 10-12); and a step to request the content from a remote client cache if the requested content is not in the local cache, wherein the content in the remote client cache was broadcast to a 15 client via a wireless broadcast connection, wherein the client is a machine that serves one or more users on a local area network, and wherein the content was stored in the remote client cache based on a user profile (pages 10-12).

In one exemplary embodiment, an article of manufacture for sharing 20 digital content among a plurality of users is disclosed, comprising: a computer readable medium having computer readable code means embodied thereon, the computer readable program code means comprising: a step to store content broadcast to a client via a wireless broadcast connection in a client-side cache of at least one client, wherein the client is a machine that serves one or more users on a local area network and wherein the content is stored based on a user profile (pages 9-10); a step to make the content in the 25 client-side cache available to a plurality of additional clients (pages 9-10); and a step to maintain a directory of the content made available to a plurality of additional clients (pages 9-10).

STATEMENT OF GROUNDS OF REJECTION

Claims 21-23 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 1-13 and 15-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey, and 5 claims 1-13 and 15-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al.

ARGUMENT

Section 101 Rejections

10 Claims 21-23 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. In the Response to Arguments section of the final Office Action, the Examiner asserts that a computer readable medium as defined by Applicant on page 12 of the specification may be a recordable medium or a transmission medium and, as previously indicated, a transmission medium is not a 15 tangible medium. In the Advisory Action, the Examiner referred Applicants to pages 50-57 of the recently published “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility.”

Appellants note that the term “tangible” means “having substance or material existence.” (See, dictionary.com.) Contrary to the Examiner’s assertion, a 20 *transmission medium is a tangible entity, consisting of radio waves, light waves, electronic signals, etc.* Claims 21-23 require a *computer readable medium having computer readable code means embodied thereon*, and are therefore limited to *tangible* embodiments.

Regarding the Examiner’s reference to the published guidelines, 25 Appellants note that the cited guidelines teach that,

30 from a technological standpoint, *a signal encoded with functional descriptive material is similar to a computer-readable memory encoded with functional descriptive material, in that they both create a functional interrelationship with a computer.* In other words, a computer is able to execute the encoded functions, regardless of whether the format is a disk or a signal.

(Second to last paragraph on page 57; emphasis added.)

Regarding a computer-readable memory encoded with functional descriptive material, the published guidelines teaches that,

5 when functional descriptive material is recorded on some computer-readable medium *it becomes structurally and functionally interrelated to the medium and will be statutory in most cases* since use of technology permits the function of the descriptive material to be realized.

(Page 50, second paragraph; emphasis added.)

10 As noted above, claims 21-23 require a *computer readable medium having computer readable code means embodied thereon*. Appellants note that computer readable code means is classified as functional descriptive material and that claims 21-23 are therefore directed to statutory subject matter. Thus, Appellants respectfully request that the section 101 rejections be withdrawn.

Independent Claims 1, 9, 15, 18-23 and 28

15 Independent claims 1, 9, 15, and 18-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey and independent claims 1, 9, 15, 18-23, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. Regarding claim 1, the Examiner asserts that Carter discloses receiving content broadcast to a client (col. 27, lines 65-66) and storing said received 20 content in said client-side cache (col. 28, lines 7-10). In the Response to Arguments section of the final Office Action, the Examiner asserts that Carter clearly discloses storing content based on a user profile (Carter's system utilizes a migration controller that manages the storage of content based on, among other items, user data access patterns (col. 14, lines 40-46)). The Examiner further asserts that Mao also stores content based 25 on a user profile (Mao only stores the most recently accessed web pages (col. 8, lines 61-65, and col. 9, lines 3-7)). In the Advisory Action, the Examiner asserts that a "user profile" is merely any data set that represents characteristics of users and maintains that the data access patterns taught by Carter are analogous to Applicant's claimed user profile.

30 Appellants note that the present specification, as amended, teaches that, "for example, the user profile 260 might provide a list of the users most popular sites." (Page 6, line 10, of the amended specification; emphasis added.) User profile 260 is a

data entity (see, FIGS. 2 and 3). Regarding the Examiner's assertion that the data access patterns taught by Carter are analogous to Applicant's claimed user profile, Appellants note that this definition is contrary to the well known definition of a user profile. For example, Lalmas et al. in a report entitled "Personalised Enriched Broadcast Experience" 5 teach that "*users profiles were represented as a list of likes and dislikes with associated probability values reflecting the degree of interest.*" (See, http://www.ercim.org/publication/Ercim_News/enw62/lalmas.html.) Carter does not disclose or suggest that the data access patterns are lists, or that the access patterns indicate a degree of interest of a user. In addition, Carter does not disclose or suggest 10 that the data access patterns indicate the access pattern(s) of a single user and, thus, cannot provide a profile of a user.

Neither Carter, Humphrey, nor Mao, however, address the issue of storing content *based on a user profile*, as defined in the present disclosure. Humphrey, for example, is directed to broadcasting information, for example, "when the rate of requests 15 for information exceeds a predetermined number over a predetermined time." (Paragraph 52) Carter is directed to a shared client-side Web cache, wherein the Web cache is shared by a particular group of users. (Col. 2, lines 38-40.) In the text cited by the Examiner, Carter teaches that "the migration controller can determine and respond to data access patterns, resource demands or any other criteria or heuristic suitable for practice 20 with the invention. Accordingly, the migration controller can balance the loads on the network, and move data to nodes from which it is commonly accessed." (Col. 14, lines 40-45.) Mao is directed to formatting Internet HTML Web page data to fit within a standard MPEG-2 data packet structure, and multiplexing it along with other MPEG-2 25 digital video signals for transport within a multiple channel digital video system (see, Abstract). In the text cited by the Examiner, Mao teaches that "between the two extremes of no storage at one end, and 100% local storage of the rotating carousel at the other end, there is a variety of partial storage options. One option is to use a high-speed cache to store a number of the most recently accessed Web pages." (Col. 8, lines 61-65.) Neither the data access patterns taught by Carter nor the most recently accessed Web pages taught 30 by Mao are user profiles, as defined in the present specification and as understood by a

person of ordinary skill in the art. Independent claims 1, 9, 15, 18-23, and 28 require *storing content based on a user profile*.

Thus, Carter et al., Humphrey, and Mao et al., alone or in combination, do not disclose or suggest storing content based on a user profile, as required by independent 5 claims 1, 9, 15, 18-23, and 28.

Dependent Claims 25 and 27

Dependent claims 25 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey and under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. Regarding claims 25 and 27, the 10 Examiner acknowledges that Carter fails to specifically recite where received content was predicted to be of interest to a user, but asserts that Humphrey discloses predicting content of interest to a user (page 2, paragraph 24), and then sending the content predicted to be of interest prior to a client request (page 2, paragraph 25). The Examiner further asserts that Mao discloses that said “broadcast content to said client...was 15 predicted to be of interest to a user.” (Col. 4, lines 6-9.)

Appellants note that, in the text cited by the Examiner, Humphrey teaches to “determine what information is of *global interest to the Internet community*.” (Page 2, paragraph 24; emphasis added.) Appellants also note that, in the text cited by the Examiner, Mao teaches that “typical broadcast Web sites contain news, weather and 20 sports, but can be any Web site of general interest to many viewers.” (Col. 4, lines 6-9.) Neither Humphrey nor Mao discloses or suggests to determine what information is *predicted to be of interest to a user*. In addition, Appellants could find no disclosure or suggestion in either Carter, Humphrey, or Mao to combine the determination of what information is of interest to the Internet community, with the invention of Carter.

25 Thus, Carter et al., Humphrey, and Mao, alone or in combination, do not disclose or suggest wherein said received content was predicted to be of interest to a user, as required by claim 25, and do not disclose or suggest wherein said content in said remote client cache was predicted to be of interest to a user, as required by claim 27.

Conclusion

The rejections of the cited claims under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey, and under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. are therefore believed to be improper and 5 should be withdrawn. The remaining rejected dependent claims are believed allowable for at least the reasons identified above with respect to the independent claims.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,

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Date: October 10, 2006

15

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

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APPENDIX

1. A method for storing digital content in a client-side cache, said method comprising the steps of:

5 receiving content broadcast to a client via a wireless broadcast connection, wherein said client is a machine that serves one or more users on a local area network;

storing said received content in said client-side cache based on a user profile; and

making said content in said client-side cache available to other clients.

10

2. The method of claim 1, further comprising the step of determining if requested content is in said client-side cache before requesting said content from a remote source.

15 3. The method of claim 1, further comprising the step of requesting said content from an edge server if said requested content is not in said client-side cache.

4. The method of claim 1, further comprising the step of requesting said content from a provider of said content if said requested content is not in said client-side
20 cache.

5. The method of claim 1, further comprising the step of requesting said content from another client cache if said requested content is not in said client-side cache.

25 6. The method of claim 5, wherein said step of requesting said content from another client cache further comprises the step of accessing a directory to determine where said content is cached.

30 7. The method of claim 1, further comprising the step of providing information to a central cache directory regarding content that is stored in said client-side cache.

8. The method of claim 1, wherein said content in said client-side cache is made available to other clients using a point-to-point link.

9. A method for obtaining content over a network, said method comprising the steps of:

determining if requested content is in a local cache; and

requesting said content from a remote client cache if said requested content is not in said local cache, wherein said content in said remote client cache was broadcast to a client via a wireless broadcast connection, wherein said client is a machine that serves one or more users on a local area network, and wherein said content was stored in said remote client cache based on a user profile.

10. The method of claim 9, further comprising the step of requesting said content from a remote source if said requested content is not in said remote client cache.

15

11. The method of claim 9, further comprising the step of requesting said content from an edge server if said requested content is not in said remote client cache.

20 12. The method of claim 9, further comprising the step of requesting said content from a provider of said content if said requested content is not in said remote client cache.

25 13. The method of claim 9, wherein said step of requesting said content from a remote client cache further comprises the step of accessing a directory to determine where said content is cached.

14. (Cancelled)

30 15. A method for sharing digital content among a plurality of users, said method comprising the steps of:

storing content broadcast to a client via a wireless broadcast connection in a client-side cache of at least one client, wherein said client is a machine that serves one or more users on a local area network and wherein said content is stored based on a user profile;

5 making said content in said client-side cache available to a plurality of additional clients; and

maintaining a directory of said content made available to a plurality of additional clients.

10 16. The method of claim 15, wherein a user determines if requested content is in said directory before requesting said content from another remote source.

17. The method of claim 15, wherein said content in said client-side cache is made available to other clients using a point-to-point link.

15 18. A system for storing digital content in a client-side cache, said system comprising:

a memory that stores computer-readable code; and

a processor operatively coupled to said memory, said processor configured

20 to implement said computer-readable code, said computer-readable code configured to:

receive content broadcast to a client via a wireless broadcast connection, wherein said client is a machine that serves one or more users on a local area network;

store said received content in said client-side cache based on a user profile; and

25 make said content in said client-side cache available to other clients.

19. A system for obtaining content over a network, said system comprising:

a memory that stores computer-readable code; and

30 a processor operatively coupled to said memory, said processor configured

to implement said computer-readable code, said computer-readable code configured to:
determine if requested content is in a local cache; and
request said content from a remote client cache if said requested content is
not in said local cache, wherein said content in said remote client cache was broadcast to
5 a client via a wireless broadcast connection, wherein said client is a machine that serves
one or more users on a local area network, and wherein said content was stored in said
remote client cache based on a user profile.

20. A system for sharing digital content among a plurality of users, said
10 system comprising:
a memory that stores computer-readable code; and
a processor operatively coupled to said memory, said processor configured
to implement said computer-readable code, said computer-readable code configured to:
store content broadcast to a client via a wireless broadcast connection in a
15 client-side cache of at least one client, wherein said client is a machine that serves one or
more users on a local area network and wherein said content is stored based on a user
profile;
make said content in said client-side cache available to a plurality of
additional clients; and
20 maintain a directory of said content made available to a plurality of
additional clients.

21. An article of manufacture for storing digital content in a client-side
cache, comprising:

25 a computer readable medium having computer readable code means
embodied thereon, said computer readable program code means comprising:
a step to receive content broadcast from a central server to a client via a
wireless broadcast connection, wherein said client is a machine that serves one or more
users on a local area network;
30 a step to store said received content in said client-side cache based on a

user profile; and

a step to make said content in said client-side cache available to other clients.

5 22. An article of manufacture for obtaining content over a network, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

a step to determine if requested content is in a local cache; and

10 a step to request said content from a remote client cache if said requested content is not in said local cache, wherein said content in said remote client cache was broadcast to a client via a wireless broadcast connection, wherein said client is a machine that serves one or more users on a local area network, and wherein said content was stored in said remote client cache based on a user profile.

15

 23. An article of manufacture for sharing digital content among a plurality of users, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

20 a step to store content broadcast to a client via a wireless broadcast connection in a client-side cache of at least one client, wherein said client is a machine that serves one or more users on a local area network and wherein said content is stored based on a user profile;

 a step to make said content in said client-side cache available to a plurality of additional clients; and

25 a step to maintain a directory of said content made available to a plurality of additional clients.

 24. The method of claim 1, wherein said content broadcast to said client is broadcast prior to being requested by a user.

25. The method of claim 1, wherein said received content was predicted to be of interest to a user.

26. The method of claim 9, wherein said content in said remote client
5 cache was broadcast prior to being requested by a user.

27. The method of claim 9, wherein said content in said remote client cache was predicted to be of interest to a user.

10 28. A method for storing digital content in a client-side cache, said method comprising the steps of:

receiving content broadcast to a client via a wireless broadcast connection, wherein said client is a machine that serves one or more users on a local area network and wherein said client is tuned to receive said wireless broadcast connection via a digital television channel;

15 storing said received content in said client-side cache based on a user profile; and

making said content in said client-side cache available to other clients.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to § 1.130, 1.131, or 1.132 or entered by the Examiner and relied upon by appellant.

RELATED PROCEEDINGS APPENDIX

There are no known decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 CFR 41.37.